

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, July 12, 2010 at LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Gary Polhemus called the meeting to order. Board members Paul Bisceglia, Nancy Swanson and Marc Komorsky were present. Aaron McPeck was absent.

Ms. Swanson made a motion to accept the minutes of June 7, 2010 as submitted. Mr. Bisceglia seconded and the motion carried unanimously. MINUTES ACCEPTED.

OLD BUSINESS

06-10-01 AREA VARIANCE: ORANGE COUNTY – POUGHKEEPSIE LIMITED PARTNERSHIP dba VERIZON WIRELESS, ROSSWAY ROAD, PLEASANT VALLEY, NEW YORK (OWNER: MARIA IOZZO) Grid No. 6562-03-370380 Seeking relief from Chapter 240-28 Schedule B, Chapter 240-49 G.(2), (5) in order to locate a wireless monopole with a proposed height of 136', and a setback of 231' from side yard and 341' from rear (tower) and 300' (accessory structure)

Mr. Polhemus announced that this application had been postponed and will not be covered that night. It is on the Planning Board agenda for July 20, 2010.

Mr. Polhemus read the following statement: "For those of you in the public who are curious as to why the application of Verizon is being adjourned this evening, I can advise you as follows:

The application of Verizon has not yet been presented to the Town of LaGrange Planning Board. Therefore, there has been no change in the status of the Verizon application since the ZBA's meeting of June. It was the Town Attorney's suggestion that the ZBA adjourn the public hearing until Verizon has made an initial presentation to the Planning Board, which will occur this month. Therefore, the public hearing will be continued to August. All members of the public wishing to speak on the application will have the opportunity to do so at the August meeting."

NEW BUSINESS

07-10-01 AREA VARIANCE: GLEN DROESE, 151 NOXON ROAD, POUGHKEEPSIE, NEW YORK Grid No. 6360-01-080968 Seeking relief of 11' from the r.o.w. of Noxon Road in order to construct a new front porch and balcony with a proposed setback of 79' per Chapter 240-28 Schedule B

Glen Droese was present to represent his application. Mr. Droese was sworn in by Mr. Bisceglia.

Mr. Droese said the new front porch is a replacement of an existing front stoop that was damaged approximately 10 years ago when a tree fell in his front yard. Mr. Droese provided pictures of the house.

Mr. Bisceglia said this is just a replacement and he has no questions. Mr. Polhemus said he visited the site and he noticed that, even with the new front porch, the neighboring houses are closer to the road than Mr. Droese's house.

Mr. Polhemus said the board had received a referral from Dutchess County Department of Planning & Development indicating that this was a matter of local concern.

Mr. Polhemus asked if there was anyone in the audience who wished to speak for or against the application. There being no comments, Mr. Polhemus made a motion to close the public hearing. Mr. Bisceglia seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Komorsky made a motion to grant Mr. Droese relief of 11' from the right of way of Noxon Road in order to construct a new front porch and balcony with a proposed setback of 79' per Chapter 240-28 Schedule B. Mr. Bisceglia seconded and the motion carried unanimously. AREA VARIANCE GRANTED

Mr. Polhemus then proceeded to address the findings:

Character of the Neighborhood and Detriment to Nearby Properties

This is an improvement to the house and appearance for the other houses nearby.

Alternative Methods for Achieving Benefit Sought by Applicant

The front door comes out from the front of the house. There did not appear to be an alternate other than replacing the original stoop which would have been less appealing.

Substantiality of Variance Requested

This is an 11' variance on a 90' setback creating a 79' setback. The house itself is 92' from Noxon Road. The new deck is 13' including the steps. The other houses are closer to Noxon Road than this one, even with the deck added..

Effect or Impact on Physical or Environmental Conditions in the Neighborhood

They board sees no negative impact. The houses are closer to the road than the applicant's house.

Self-Creation of Difficulty

This was not self-created. It was due to zoning changes since the house was built.

Other Consideration

The applicant had started work on the deck before realizing he needed a variance. The building inspector allowed him to proceed at his own risk in case the variance was not granted.

07-10-02 AREA VARIANCE: TERESA GARAY, 3 COCHRAN HILL ROAD,
POUGHKEEPSIE, NEW YORK Grid No. 6260-04-683329

Seeking relief of 10' from the side property line in order to construct a 24' x 14' deck with a proposed setback of 5' per Chapter 240-29 G.(1)

Mr. Polhemus explained that this application is to replace a deck that was damaged by a tree falling. The problem is that the deck will have a setback of 5' from the property line where the original deck was located right on the property line. The Building Inspector had requested that the applicant come up with a design that met the minimum standards of the building code.

Jose Rodriguez was present to represent the application. Mr. Rodriguez was sworn in by Mr. Bisceglia.

Mr. Rodriguez explained that the existing deck is the only means of entry to the residence. A storm damaged the deck and a vehicle parked next to the deck. It was on record as an existing, nonconforming structure and he is now trying to re-build the deck with a 5' setback.

Mr. Polhemus asked if there was anyone in the audience who wished to speak for or against the application.

Jim Cillo, 5 Cochran Hill Road said he is the next door neighbor. He said that he understands the new deck to be 20' x 14' which is five times the size of the existing deck. Mr. Polhemus said the deck is proposed to be 24' x 14'. Mr. Cillo said he is a little concerned for his privacy. He had a picture of the house and the supposed property line where the stake is. The property does taper towards the Garay house and he has concerns as to how the deck will affect his privacy. He is not saying he does not want the applicant to build a deck. Mr. Cillo looked at a map of the proposal and commented that one could see that the proposed deck is at least double the size of the existing deck. Mr. Cillo asked if there would be a means of privacy with regard to screening or fencing. Mr. Cillo said his pool is on the other side and he does not want the deck next to his pool. There is not a fence there now.

Mr. Bisceglia said the plan shows a fence. Mr. Rodriguez said a 6' fence is proposed on his side of the property line. Originally he had proposed an 8' fence but the building inspector advised him that 6' was the maximum permitted in the zoning code.

Mr. Bisceglia referred to the map and said to be clear is that what he intends to put there? Mr. Rodriguez said yes.

Mr. Rodriguez indicated on the map the location of a Florida room and driveway. He also referred to the exterior elevation and showed the double doors at the end of the driveway. He said it is challenging to come 5' off the property line on one side and try to maintain a parking area on the other side. If the deck did get a little longer it was because of the garage underneath.

Mr. Bisceglia pointed out that the proposed deck is 5' further away from the property line than the existing deck.

Mr. Komorsky asked how much larger the new deck will be versus the existing deck. Mr. Rodriguez referred to the survey.

Ms. Swanson asked Mr. Cillo if he would be more comfortable with an 8' fence. Mr. Cillo said he would. Mr. Cillo added that the existing deck was just access but the proposed deck could be used for entertaining. Mr. Rodriguez said he would have no problem installing an 8' fence. Mr. Cillo said he would like the fence installed prior to any other work being done.

Mr. Komorsky commented that there is an elevation issue because Mr. Cillo's pool is quite a bit higher than the applicant's deck. Mr. Cillo said an 8' fence would definitely help because it would create a buffer.

Ms. Swanson asked how far from the property line is Mr. Cillo's pool. Mr. Cillo said it is at least 15 feet.

There being no further public comments, Mr. Polhemus moved to close the public hearing. Mr. Bisceglia seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Polhemus said that the board had received a referral from the Dutchess County Department of Planning & Development which stated this is a matter of local concern.

Mr. Bisceglia made a motion to grant Teresa Garay an area variance to construct a 24' x 14' deck with a proposed setback of 5' per Chapter 240-29 G.(1). Included in the variance was an 8' high fence that would be required to be installed prior to construction of the deck. Based on the survey the fence would begin approximately at the rear of the Cillo residence and extend to the back edge of the proposed new deck.

Mr. Komorsky seconded and the motion carried unanimously. AREA VARIANCE GRANTED

Mr. Polhemus then proceeded to address the findings:

Character of the Neighborhood and Detriment to Nearby Properties

This will be an improvement to the property by putting up a new deck. The previous deck was destroyed by a tree falling on it. The nearby property concern is resolved by requiring an 8' high fence which will start even with the rear of the neighbor's house and run to the rear-most point on the new deck. The 8' high fence will protect the neighbor's property.

Alternative Methods for Achieving Benefit Sought by Applicant

The applicant talked to the Building Inspector who required that the deck be 5' off the property line rather than be on the property line.

Substantiality of Variance Requested

It is a substantial variance being only 5' from the property line but it has been moderated by the request for an 8' fence. The original deck was actually on the property line..

Effect or Impact on Physical or Environmental Conditions in the Neighborhood
This will be an improvement and there are no environmental concerns.

Self-Creation of Difficulty

This is not self-created due to the property lines and the nature of the layout of the lots in the neighborhood.

07-10-03 AREA VARIANCE: RED WING PROPERTIES, C/O PAUL DOHERTY,
BARMORE ROAD, LAGRANGEVILLE Grid No. 6561-03-220285; 6561-
03-180378; 6561-03-148296

Seeking relief from Chapter 240-28 Schedule B that requires a minimum lot size in an R-120 zoning district of 120,000 sq.ft. (2.75 acres) in order to carry out a lot line realignment that will result in Lot #3 increasing 2.31 acres to 2.66 acres.

Dennis Lynch, P.E..of the firm of Day Engineering was present to represent the application. Mr. Bisceglia led the swearing in of Mr. Lynch.

Mr. Lynch explained that this is a lot line realignment between 3 lots. Lot #1 to the south consists of 54.5 acres. Lot #2 along the west consists of 11.3 acres and Lot #3 currently has .35 acres. The proposal is to have a lot realignment between the 3 parcels to increase Lot #3 by 2.3 acres with 2.14 acres coming from Lot #1 and approximately 1.7 acres from Lot #2 to result in Lot #3 becoming 2.66 acres. The zoning code requires 2.75 acres in an R-120 zoning district and the applicants are seeking relief from the code.

Mr. Lynch added that no construction or other improvements would be made. It is just a lot line realignment.

Mr. Polhemus asked if there was anyone in the audience who wished to speak for or against the application. There being no comments from the audience, Mr. Polhemus made a motion to close the public hearing. Mr. Bisceglia seconded and the motion carried unanimously.
PUBLIC HEARING CLOSED

Ms. Swanson asked the purpose of the lot line realignment. Mr. Lynch said it was an agreement between the two property owners.

Mr. Polhemus asked if this application had anything to do with the concern over the nature trail. Mr. Lynch said, no it did not. Mr. Polhemus also asked if there was any particular concern for adding to the property other than just wanting to.

Mr. Paul Doherty was sworn in by Mr. Bisceglia. Mr. Doherty then explained that Jim McManus and his wife Sylvia own the small lot of .35 acres. Mr. McManus requested about 10 years ago that if Red Wing ever did anything with their property they would like to purchase some for his backyard, so they are selling him some property behind his house.

Mr. Polhemus questioned the map and the reference to Lot #2 being 11 acres but in the legend it is shown as 51.75 acres. Mr. Lynch said it should be 11.33 acres. Mr. Polhemus also noted that Lot #1 is shown as 52.4 acres which is close enough to rounding up from

52.38 acres. Mr. Lynch said originally those two parcels were one parcel so the 51 number is an older number. Mr. Polhemus summarized by saying that Lot #2 will wind up as 11.16 acres.

There being no further public comments, Mr. Polhemus made a motion to close the public hearing. Mr. Bisceglia seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Bisceglia noted that Lot #3 will be increased to 2.66 acres. He asked if there was any reason why the lot could not be made a little larger to conform. Mr. Lynch said that was the agreement between the two parties to increase it to 2.66 acres. Mr. Doherty explained that the agreement was to include the stream and to form as straight a line as possible and that came out to 2.66 acres.

Mr. Bisceglia made a motion to grant Red Wing Properties care of Paul Doherty of Barmore Road, relief from Chapter 240-28 Schedule B that requires a minimum lot size in an R-120 zoning district of 120,000 sq.ft. (2.75 acres) in order to carry out a lot line realignment that will result in Lot #3 increasing 2.31 acres to a total lot size of 2.66 acres. Mr. Komorsky seconded and the motion carried unanimously. AREA VARIANCE GRANTED

Mr. Polhemus then addressed the findings:

Character of the Neighborhood and Detriment to Nearby Properties

There is no detriment to nearby properties. The applicant is increasing the size of a small lot which will enhance the neighborhood.

Alternative Methods for Achieving Benefit Sought by Applicant

This was an agreement made between two owners and the landowners did not want to go any larger to add additional land to the property.

Substantiality of Variance Requested

This is not a substantiality. The lot will increase to 2.66 acres making it much less nonconforming.

Effect or Impact on Physical or Environmental Conditions in the Neighborhood

No adverse impacts. No structures are being created or changed by the request.

Self-Creation of Difficulty

Not self-created. The applicant is trying to meet current zoning standards

07-10-04 AREA VARIANCE: RED WING PROPERTIES, C/O PAUL DOHERTY, BARMORE ROAD, LAGRANGEVILLE Grid No. 6561-03-220285; 6561-03-201379

Seeking relief from Chapter 240-28 Schedule B that requires a minimum lot size in an R-120 zoning district of 120,000 sq.ft. (2.75 acres) in order to carry out a lot line realignment that will result in Lot #4 remaining at 0.65 acres

Dennis Lynch, P.E. of the firm of Day Engineering was present to represent the application. Mr. Lynch explained that this lot line realignment is between Lot #1 and Lot #4. The lot line realignment would add .03 acres to Lot #4 and would also subtract .03 acres so it would just be a reconfiguration of the lot lines. They would be creating a 15' road frontage for a nature trail that would connect to nature trails on Lot #1 and 2. This would connect to the nature trails on the northern side of Barmore Road. There would be no physical change to the properties.

Mr. Polhemus asked if there were any comments from the public. There were no comments.

Ms. Swanson asked where the Red Wing property would be north of Barmore Road. Mr. Lynch said he had misspoken. He meant to say south of Barmore Road. Mr. Paul Doherty said he was originally planning on the trail going from Tymor Park to Freedom Park but they had no luck in Union Vale because of some neighbors. Now they are out to Barmore Road and the Wiltse property which is between Barmore Road and Freedom Park is not available at this time.

Ms. Swanson indicated the trail and asked if that is to provide an entrance from Barmore Road. Mr. Doherty said that was correct and added that there would be no parking there. Other areas of the trail have parking available but this location is just for the locals. Mr. Polhemus announced for the record that Mr. Doherty had passed out copies of a brochure showing the nature trails. Mr. Doherty said there is a temporary trail now that starts near the Dyal house and there is parking there. On the trail map the parking is indicated by a "P". The temporary parking will go away. Mr. Doherty indicated on the trail map where the temporary trail is located, and also where the other trails are.

Mr. Bisceglia asked what can be done to prevent people from parking along the road near the new trail. Mr. Doherty said it is not a good area for people to park and parking will not be provided. He said it is a trail for local people. People ride their horses, bicycles, etc.

Ms. Swanson asked why they will be abandoning the temporary trail. Mr. Doherty said that part of the property will eventually have a road through it and there may be future parking along that road that goes down through their property to Velie Road, but that is probably many years away.

Mr. Bisceglia asked how come they did not do an easement instead of a lot line realignment. Mr. Doherty said most people are concerned about liability even though NYS Municipal Law states that if a trail is signed properly and nothing is put up to obstruct or injure people there is little liability. Because of this they are purchasing the property from the lady.

Mr. Komorsky said a road was mentioned so were there plans for a road. Mr. Doherty said nothing is before the Planning Board yet.

There being no public comments, Mr. Polhemus made a motion to close the public hearing. Mr. Bisceglia seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Polhemus said his only concern was about parking and thought maybe there could be signs erected saying "no trail parking" Mr. Bisceglia asked if the police had been notified. Mr. Komorsky asked if the Highway Superintendent had been notified. Mr. Bisceglia said he liked the idea of the nature trail coming out onto Barmore Road but you would have to prevent any cars from parking there.

Ms. Swanson asked when Mr. Doherty was going to abandon the temporary trail. Mr. Doherty said they would probably keep that trail open and there would be a dual trail. There is parking for 2 cars at the temporary trail. Mr. Doherty added that where the new trail will be it is almost impossible to park there because it drops off almost immediately to a wetland on one side and a car would probably be stuck if someone tried to park off the other side. Mr. Bisceglia asked if a fence would be put up in the area to prevent people from parking. Mr. Doherty said the temporary area will probably be there until they develop the property which will probably take many years. Once the new development goes in, there will probably be parking for the people from the new development.

Mr. Bisceglia asked if there was something like a telephone pole or utilities at the entrance to the proposed trail to make it difficult to pull in or out or if someone could get hurt. Mr. Doherty said when he opens that up which will probably be sometime next year, they have to put some fill in there to bring it up to road grade. Some posts will also be added to allow for certain uses of the trail. It will not be wide enough for vehicles to get through although snow mobiles will be.

Ms. Swanson asked if it was a wetland area. Mr. Doherty said it is wet back beyond but not near the road. He did not believe it was a town wetland although in the back it is. Mr. Bisceglia asked if they had a topography map. Mr. Lynch said he did not have one with him.

Mr. Bisceglia said it will be a great addition to the town, he just has concerns about creating a dangerous situation without even knowing it. Mr. Polhemus asked Mr. Doherty if he would have any problem with a statement at the end of the trail stating no parking on the road. Mr. Doherty said he would speak to the Highway Superintendent about putting up a couple of signs stating no parking. Mr. Bisceglia asked if there had been any complaints about people parking where they are presently allowed to park. Mr. Doherty said no, they had not. Mr. Bisceglia asked if anyone had parked on the road. Mr. Doherty said no, because it would be very difficult to do so.

Mr. Polhemus asked Mr. Doherty if Lot #4 is remaining at .65 acres at a request from the property owners because they did not want more property. Mr. Lynch said that was correct.

Mr. Bisceglia made a motion to grant Red Wing Properties care of Paul Doherty, Barmore Road, LaGrangeville relief from Chapter 240-28 Schedule B that requires a minimum lot size of 120,000 square feet (2.75 acres) in an R-120 zoning district in order to carry out a lot line realignment that will result in Lot #4 remaining at .65 acres. Ms. Swanson seconded and the motion carried unanimously. AREA VARIANCE GRANTED

Mr. Polhemus then proceeded with the findings:

Character of the Neighborhood and Detriment to Nearby Properties

There is no detriment to nearby properties. This will enhance the neighborhood by providing nature trails with a 15' access onto Barmore Road.

Alternative Methods for Achieving Benefit Sought by Applicant

The property owners have worked out what fits best the nature of the properties that are there and the way they are laid out.

Substantiality of Variance Requested

This is not a substantial request. The property remains at 0.65 acres. The owner does not want to own more property.

Effect or Impact on Physical or Environmental Conditions in the Neighborhood

There is no adverse impact as no physical structures are being created or changed by this request. It is just a lot line realignment to provide access to the nature trails.

Self-Creation of Difficulty

It is a non-self-created non conformance due to the zoning changes and requirements in the area and the small property.

Other Consideration

The board asked that no parking signs be installed to deter any parking and have the fire department or the police department enforce this. The people in the neighborhood like the ambience in the area and don't want to have cars parked in front of their homes.

07-10-05 AREA VARIANCE: VITOR MATOS, 186 OVERLOOK ROAD,
POUGHKEEPSIE, NEW YORK (Owner Allison Matos) Grid No. 6361-01-
035820

Seeking relief from Chapter 240-29 (g.(1) in order to construct an 18' x 12' kitchen enlargement to a nonconforming structure

Mr. Polhemus explained that the applicant is seeking a variance because a 90' setback is required from a county road. The house is 44' from the road and the addition is also within the 90' setback.

Allison Matos was sworn in by Mr. Bisceglia. Ms. Matos said that the house was built in 1925. They are putting a relatively small addition on the rear to extend the kitchen. She added that the addition is not visible from the neighbors or from the road.

Mr. Polhemus asked if there was anyone in the audience who wished to speak for or against the application. There were no comments.

Mr. Bisceglia asked if the addition was staying in line with the existing house. Mr. Polhemus said the applicant is adding on to the rear of the house but because the addition also encroaches into the 90' setback a variance is required.

Mr. Bisceglia asked if there were any plans of the elevations. Vitor Matos was sworn in my Mr. Bisceglia. Mr. Matos provided elevations of the house and addition. It was seen to be a one-story addition.

Mr. Polhemus made a motion to close the public hearing. Mr. Bisceglia seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Polhemus said that Dutchess County Department of Planning and Development had indicated that this is a matter of local concern.

Mr. Komorsky made a motion for an area variance to be granted to Allison Matos to construct an 18' x 12' addition to a nonconforming house which is set back 44' from the right of way of a county road, where the addition is also nonconforming per Chapter 240-29 G.(1). Mr. Bisceglia seconded and the motion carried unanimously. AREA VARIANCE GRANTED.

Mr. Polhemus then addressed the findings:

Character of the Neighborhood and Detriment to Nearby Properties

There is no detriment. The addition is to the rear of the home. It can't be seen from the front. It is a 3 plus acre property over 500' deep so there is no impact.

Alternative Methods for Achieving Benefit Sought by Applicant

The applicant is adding on to the kitchen which is existing at the rear of the house.

Substantiality of Variance Requested

There is no additional nonconformance involved. The house is 44' from Overlook Road and the addition is on the rear of the house, although it is also within the 90' setback from Overlook Road..

Effect or Impact on Physical or Environmental Conditions in the Neighborhood

There are no effects or impacts on the physical or environmental conditions in the neighborhood because the addition is going on the rear of the house.

Self-Creation of Difficulty

It is not a self-created difficulty because of the current 90' setbacks on an older house.

There being no other business before the board, Mr. Polhemus made a motion to adjourn the meeting at 8:30 p.m. Mr. Bisceglia seconded and the motion carried unanimously.

Respectfully submitted

Susan Quigley
Zoning Board of Appeals Secretary